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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/630,020
Filing Date: July 30, 2003
Appellant(s): CREWE, MATTHEW

Timothy E. Manning
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/23/09 appealing from the Office action mailed 6/23/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5875327 BRANDT ET AL. 2-1999

6574629 B1 COOKE, JR. ET AL. 6-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al. (Brandt), U.S. Patent No. 5,875,327, in view of Cooke, Jr. et al. (Cooke), U.S. Patent No. 6,574,629 B1.

As to claim 14, Brandt discloses a method of offering an application to a network integrator (Fig. 1, item 28; Fig. 3; Fig. 7, item 29; Abstract, ln. 5-12; Col. 6, ln. 10-15), the method comprising:

providing a first version of the application contained in a high-level software component (Fig. 2; Col. 9, ln. 9-14);
providing a second version of the application contained in a plurality of lower-level software components (Fig. 2; Col. 9, ln. 9-14); and
allowing the integrator to decide between use of the different versions (Col. 2, ln. 58 – Col. 3, ln. 5) for integrating the application into a network (Col. 3, ln. 9-15).

Brandt is silent on the application being a medical-imaging data visualization application and the network being a PACS network.

However, Brandt's teachings are directed to a general network and the advantages of Brandt's teachings apply as well to a PACS network as they do a generic network. Namely, Brandt's teachings of integration of applications provides for the removal of conflicts (Col. 2, ln. 65 – Col. 3, ln. 5) and the ability for an administrator or central authority to determine the preferences and/or settings of other systems when desired (Col. 9, ln. 14-25) are advantageous regardless of network type.

Also, Cooke discloses the application being a medical-imaging data visualization application (Abstract; Col. 7, ln. 49-54) and the network being a PACS network (Col. 7, ln. 30-34).

The advantage of the application being a medical-imaging data visualization application and the network being a PACS network is that medical images may be shared and viewed across a local or wide area network (Cooke: Col. 1, ln. 16-38).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Brandt by including a medical-imaging data visualization application and a PACS network as taught by Cooke in order to gain the above-mentioned advantage.

As to claim 15, Brandt and Cooke disclose the invention substantially as in parent claim 14, including the high-level software component is configured to function as a model component in a model-view-controller software architecture (Brandt: Fig. 2; Col. 9, ln. 9-25), and has an interface having a set of user interface control parameters (Brandt: Col. 9, ln. 18-21) and a set of data handling parameters (Brandt: Col. 5, ln. 45-48).

As to claim 16, Brandt and Cooke disclose the invention substantially as in parent claim 15, including the data handling parameters are DICOM format data handling parameters (Brandt: Col. 5, ln. 45-48; Cooke: Col. 7, ln. 30-34).

As to claim 17, Brandt and Cooke disclose the invention substantially as in parent claim 14, including at least a subset of the lower-level software components relate to underlying technical functions of the application (Brandt: Col. 5, ln. 45-55).

As to claim 18, Brandt and Cooke disclose the invention substantially as in parent claim 14, including providing a third version of the application contained in a plurality of intermediate-level software components (Brandt: Fig. 2).

As to claim 19, Brandt and Cooke disclose the invention substantially as in parent claim 18, including providing at least a fourth version of the application contained in a plurality of software components of a different level (Brandt: Fig. 2).

As to claims 1 and 6, the claims are rejected for the same reasons as claims 14-15 above.

As to claims 2 and 7, the claims are rejected for the same reasons as claim 16 above.

As to claim 3, Brandt and Cooke disclose the invention substantially as in parent claim 1, including the software component is a sub-component of a pre-existing data visualization application (Brandt: Fig. 2; Col. 9, ln. 9-14; Cooke: Abstract; Col. 7, ln. 49-54).

As to claim 4, Brandt and Cooke disclose the invention substantially as in parent claim 3, including the software component includes a software wrapper, the software wrapper being configured to map the sets of parameters of the interface to parameters appropriate for the sub-component (Brandt: Col. 9, ln. 9-25).

As to claim 5, Brandt and Cooke disclose the invention substantially as in parent claim 1, including the user interface control parameters include preset parameters (Brandt: Col. 9, ln. 18-21).

As to claim 8, Brandt and Cooke disclose the invention substantially as in parent claim 6, including the PACS network including a specific glue bridge software component, the specific glue bridge being configured to accommodate non-standard aspects of the PACS network (Brandt: Col. 4, ln. 43-55).

As to claim 9, Brandt and Cooke disclose the invention substantially as in parent claim 8, including the non-standard aspect of the PACS network include a non-standard data format (Brandt: Col. 4, ln. 43-55; Col. 5, ln. 45-55).

As to claim 10, Brandt and Cooke disclose the invention substantially as in parent claim 9, including the non-standard data format is a compressed data format (Brandt: Col. 5, ln. 45-55; Cooke: Col. 13, ln. 61 – Col. 14, ln. 4).

As to claim 11, the claim is rejected for the same reasons as claim 9 above.

As to claim 12, Brandt and Cooke disclose the invention substantially as in parent claim 11, including the non-standard data handling relates to proprietary grouping of data (Col. 1, ln. 39-44).

As to claim 13, Brandt and Cooke disclose the invention substantially as in parent claim 6, including the PACS network including a dispatcher software component, the dispatcher being configured to link multiple software components corresponding to multiple software applications to the PACS network via a common interface (Brandt: Fig. 1-2; Cooke: Fig. 1).

(10) Response to Argument

• **Argument 1** (see page 7 of the appeal brief)

Appellant argues the Examiner incorrectly equates the preference files of Brandt with the “model component” of the claimed invention, the user’s level of operation in the Brandt network with the “view component” included in the claimed PACS network, and the ability to control the hierarchical order of preferences files in Brandt with the “controller component” also included in the PACS network. Appellant argues the term “model-view-controller software architecture” has specific meaning in the art of software engineering and that one of ordinary skill in the art would not interpret Brandt as disclosing the features of such architecture.

• **Examiner’s Response to Argument 1**

Appellant’s argument that the disclosure of Brandt fails to disclose the features claimed hinges upon the statement that the term “model-view-controller software architecture” has specific meaning in the art of software engineering. Allegedly the specific meaning known to one of ordinary skill in the art would eliminate Brandt’s disclosure as reading upon this term. However, the Appellant has not pointed to any section of the Appellant’s specification that provides support for such a limited interpretation of the claims.

In fact, Appellant has made no references to any references (patent-related or otherwise) that show that the term “model-view-controller software architecture” is in any way limited to the specific meaning alleged by Appellant. Accordingly, the Examiner has given the terms the broadest reasonable interpretation for the purposes of a prior art rejection.

The Examiner maintains in response to this that the preference files of Brandt disclose the “model component” of the claimed invention, the user’s level of operation in the Brandt network disclose the “view component” included in the claimed network, and the ability to control the hierarchical order of preferences files in Brandt disclose the “controller component” also included in the network (Fig. 2; Col. 9, ln. 9-25).

For the purposes of further clarification, the following response to arguments in the final rejection mailed on 6/23/08 is also provided: “Brandt discloses a model-view-controller software architecture in that Brandt shows controlling a hierachal order of different preference files, or models, depending on the characteristics associated with a user or users, or views (Fig. 2; Col. 9, ln. 9-25). That is, the level at which a user operates in a network may be seen as the user’s view of the network, as one example. The different preference files (lower level vs. higher level) may be seen as different models for operation in the network.” (Final Office action mailed on 6/23/08, page 3, paragraph 8).

- Argument 2 (see page 8 of the appeal brief)

Appellant argues the preference files of Brandt merely define preferences for configuration parameters such as screen color, mouse operation, and the like. In contrast, a model component defines the fundamental functionality of the application.

- **Examiner's Response to Argument 2**

Appellant alleges the term “model component” may only be interpreted as defining the fundamental functionality of an application. However, the Examiner is unaware of any portion of the Appellant’s specification or claims that limits the model component to such a definition.

Appellant has pointed to one relied upon section of Brandt, used to disclose subject matter of claim 15, as showing that the model component of Brandt is not providing fundamental functionality. Firstly, the Examiner disagrees that “screen colors, mouse configurations, web browser parameters, etc.” (Col. 5, ln. 45-48) do not disclose fundamental functionality. In fact, the Appellant has provided no specific definition of fundamental functionality and why, for example, web browser parameters would not read on the model component.

Furthermore, the Appellant has pointed to only one of the sections of Brandt relied upon related to the model component. In rejecting claim 15, the Examiner also relied upon the disclosure of “a systems administrator may decide that there are certain parameters or

configuration options that cannot be overridden by general users (e.g., password and account information)" (Col. 9, ln. 18-21). Again, the Examiner would argue that allowing a systems administrator to set up logic that defines permissions granted based on a type of user (e.g., a general user) is a model related to fundamental functionality.

- **Argument 3 (see page 8 of the appeal brief)**

Appellant argues the claimed parameters (see claim 15) are chosen to allow integration of the visualization application into a PACS network. Nothing in Brandt has been found to disclose the claimed subject matter.

- **Examiner's Response to Argument 3**

Appellant's argument that Brandt fails to disclose the integration of the visualization into a PACS network ignores the reliance upon Cooke, Jr. as disclosing a medical-imaging data visualization application (Col. 7, ln. 49-54) and a PACS network (Col. 7, ln. 30-34).

In response to Appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

- **Argument 4 (see page 9 of the appeal brief)**

Appellant argues Brandt fails to disclose presenting a user with a unitary “look and feel” of the PACS network. In fact, Brandt discloses the opposite of achieving a common user interface.

- **Examiner’s Response to Argument 4**

The Examiner notes that the claims themselves make no mention of achieving a “unitary ‘look and feel’ of the PACS network.” In response to Appellant’s argument that the references fail to show certain features of Appellant’s invention, it is noted that the features upon which Appellant relies are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

- **Argument 5 (see page 10 of the appeal brief)**

Appellant argues that Cooke also fails to disclose the subject matter claimed (see lines 3-8 of page 10 of the appeal brief).

- **Examiner’s Response to Argument 5**

Similarly to when this was alleged against Brandt above in argument 3, the reliance by the Examiner is upon Brandt and Cooke in combination to disclose the subject matter and not either one alone.

In response to Appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

- **Argument 6 (see pages 16-17 of the appeal brief)**

Appellant argues Brandt fails to disclose providing a first and second version of an application as contained in a high-level software component and a low-level software component, respectively. Appellant goes on to state “low level” refers to the programming and processing that deal with fundamental inner operation of the computer. This is contrasted with “high level” referring to the operations and interactions that are experienced and evident by the user.

- **Examiner's Response to Argument 6**

Appellant's definitions of high and low level are not present in claim 14 itself and nothing in the specification is indicated as tying the terms to these narrow definitions

excluding all others. Accordingly, the Examiner has given the broadest reasonable interpretation to the claims. As stated in the Final Office action mailed on 6/23/08: "The preference manager of Brandt has different high-level and lower-level software components (Fig. 2; Col. 9, ln. 9-14) and the version of the preference manager will differ based on the various implementations of these high and lower level software components." The Examiner maintains his position that, absent further definition in the claims or a limiting use in the specification, Brandt (in conjunction with Cooke, Jr.) reads on the subject matter of claim 14.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Brian P. Whipple

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11/11/09

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